

HOUSE BILL 2919
By West

AN ACT to amend Tennessee Code Annotated, Title 55, relative to titling and registration of motor vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 4, is amended by adding Sections 2 through 11 of this act as a new part thereto.

SECTION 2.

(a) The commissioner of safety may authorize third parties to perform certain title and registration, motor carrier licensing and tax reporting, dealer licensing and driver license functions.

(b) A person shall not engage in any business pursuant to this act unless the commissioner of safety authorizes the person to engage in the business.

(c) The commissioner of safety may furnish necessary documents or license plates subject to this act.

(d) Except as provided in subsection (e) of this section, an authorized third party shall submit to the department all statutorily prescribed fees and taxes it collects. In addition to the statutorily prescribed fees and taxes, an authorized third party may collect and retain a reasonable and commensurate fee for its services.

(e) The department shall reimburse the authorized third party as follows:

(1) One dollar (\$1.00) of each registration fee;

(2) One dollar (\$1.00) of each title fee;

(3) An amount equal to two percent (2%) of each vehicle license tax payment the authorized third party collects and submits to the department or four dollars (\$4.00) for

each registration year or part of a registration year, whichever is more. The reimbursement amount shall not exceed the amount of vehicle license tax collected;

(4) Four dollars (\$4.00) for each application that the third party processes and that relates to driver licenses, nonoperating identification licenses or permits;

(5) An amount equal to two percent (2%) of each overweight or excess size vehicle registration or permit fee the third party collects and submits to the department or one dollar for each overweight or excess size vehicle registration or permit processed, whichever is more;

(6) One dollar (\$1.00) for each motor vehicle record, excluding motor vehicle records released to commercial recipients, including insurers and their authorized agents; and

(7) Five dollars (\$5.00) for each tax report filing.

(f) Each authorized third party that holds itself out as providing services to the general public shall post a sign in a conspicuous location in each facility of the authorized third party that contains the amount charged for each transaction performed by the authorized third party and the amount charged by the department for the same transaction.

SECTION 3.

(a) The commissioner of safety shall supervise and regulate all persons required by this act to obtain authorization.

(b) The commissioner of safety may:

(1) Conduct investigations the commissioner deems necessary;

(2) Conduct audits;

(3) Make on-site inspections during regular business hours and at locations as the commissioner of safety deems appropriate to determine compliance by an authorized third party with this act. If an inspection is conducted at a place located outside this state, the commissioner of safety may charge a fee to the authorized third party; and

(4) Require that an authorized third party or employees or agents of an authorized third party be certified to perform the functions prescribed in this act.

SECTION 4.

(a) A person may apply for authorization or certification, or both, pursuant to this act to the commissioner of safety in writing on a form prescribed and furnished by the commissioner of safety. The person shall include with the application all documents and fees prescribed by the commissioner of safety.

(b) The application shall be verified and shall contain:

(1) The name and residence address of the applicant, the name and residence address of each partner if the applicant is a partnership or the name and residence address of each principal officer if the applicant is a corporation;

(2) The principal place of business of the applicant;

(3) The established place of business at or from which the business is to be conducted; and

(4) Other information the commissioner of safety requires.

SECTION 5.

(a) A person who applies for authorization pursuant to this act shall submit with the application a bond in a form to be approved by the commissioner of safety and in an amount of at least twenty-five thousand dollars (\$25,000).

(b) A surety company authorized to transact business in this state shall execute the bond with the applicant as principal obligor on the bond and the state as obligee. The bond shall be conditioned that the applicant will faithfully comply with all of the provisions of law and that the bond is noncancellable without at least sixty (60) days' prior notice to the commissioner of safety. Any future liability of the surety company terminates on the commissioner of safety's termination of a third party's authorization.

(c) The bond inures to the benefit of any person who suffers loss because of any of the following:

(1) Nonpayment by the authorized person of any fee or tax paid to the third party by that person.

(2) Insolvency or discontinuance of business.

(3) Failure of the authorized third party to comply with the authorized third party's duties pursuant to this act.

(d) The aggregate liability of a surety company for any breach of the conditions of a bond required pursuant to this section shall not exceed the amount of the bond.

(e) The bond requirement of this section does not apply to:

- (1) A department, agency or political subdivision of this state;
- (2) A Tennessee court;
- (3) A law enforcement agency or department;
- (4) A financial institution or enterprise under the jurisdiction of the department of financial institutions or a federal monetary authority;
- (5) The federal government or any of its agencies;
- (6) A motor vehicle dealer;
- (7) An insurer under the jurisdiction of the department of commerce and insurance;
- (8) A public utility; or
- (9) An employer or association that has at least five hundred (500) employees or members.

SECTION 6.

(a) An applicant, and each partner, officer, commissioner of safety or agent or each stockholder owning twenty percent (20%) or more of a corporation, seeking authorization or certification, or both, pursuant to this act shall provide:

- (1) A full set of fingerprints to the department of safety for the purpose of obtaining state and federal criminal records.
- (2) A nonrefundable fee to be paid to the department of safety for the criminal records check.

(b) The commissioner of safety may deny an application for authorization or certification, or both, if any individual included in the application has either:

- (1) Made a misrepresentation or misstatement in the application to conceal a matter that would cause the application to be denied.

(2) Been convicted of fraud or an auto related felony in any state, territory or possession of the United States or any foreign country within the ten (10) years immediately preceding the date the criminal records check is complete.

(3) Been convicted of a felony, other than a felony described in subdivision (2) of this subsection, in a state, territory or possession of the United States or a foreign country within the five (5) years immediately preceding the date the criminal records check is complete.

(4) Violated a rule or policy of the department.

(5) Been involved in any activity that the commissioner of safety determines to be inappropriate in relation to the authority granted.

(c) The commissioner of safety may approve an application for provisional authorization or certification, or both, pending completion of the criminal records check if the applicant meets all other requirements of this act. The commissioner of safety may revoke a provisional authorization or certification, or both, for a violation of this title. A provisional authorization or certification, or both, is valid unless revoked by the commissioner of safety or until the applicant receives approval or denial of the application for authorization or certification, or both.

(d) Within twenty (20) days of completion of the criminal records check, the commissioner of safety shall approve or deny the application. If the application is denied, the commissioner of safety shall advise the applicant in writing of the denial and the grounds for denial. The department or its employees are not liable for any costs incurred by an applicant seeking authorization or certification, or both, under this act.

(e) Within thirty (30) days after receipt of the notice of denial, the applicant may petition the commissioner of safety in writing for a hearing on the application.

(f) If the authorized third party adds a partner, officer, commissioner of safety or agent, or a stockholder who owns twenty percent (20%) or more of the corporation, who was not included in the criminal records check on a prior application, the authorized third party shall notify the department within thirty (30) days of the change.

(g) At the time of notification pursuant to subsection (f) of this section, the third party shall submit to the department of transportation an application and, if applicable, a full set of

fingerprints and the fee to be paid to the department of public safety for a criminal records check. On completion of the investigation if the individual added or changed by the authorized third party is found to be ineligible pursuant to subsection (b) of this section, the commissioner of the department of safety shall advise the authorized third party and the individual in writing of the grounds for the action and that the authorization will be revoked unless the individual is removed from the position.

(h) The requirement for a criminal records check does not apply to an applicant who is seeking third party authorization and who is:

- (1) A department, agency or political subdivision of this state
- (2) A Tennessee court;
- (3) A Tennessee law enforcement agency or department;
- (4) A financial institution or enterprise under the jurisdiction of the department of financial institutions or a federal monetary authority;
- (5) The federal government or any of its agencies;
- (6) A motor vehicle dealer;
- (7) An insurer under the jurisdiction of the department of commerce and insurance;
- (8) A public utility; or
- (9) An employer or association that has at least five hundred (500) employees or members.

SECTION 7. A third party who is authorized pursuant to this act shall:

- (1) Maintain records in a form and manner prescribed by the commissioner of safety; and
- (2) Allow access to the records during regular business hours to authorized representatives of the commissioner of safety or any law enforcement agency to ensure compliance with all applicable statutes and rules.

SECTION 8.

(a) The commissioner of safety shall deny an application for third party authorization or certification, or both, under this act and shall advise the applicant in

writing within twenty (20) days of the denial and the grounds for the denial if the commissioner of safety determines from the information revealed in the criminal history check any of the following:

(1) That the applicant is not eligible for third party authorization or certification, or both, under this act;

(2) That the application is not made in good faith;

(3) That the application contains a material misrepresentation or misstatement; or

(4) That the applicant has not met the requirements of law.

(b) An applicant who is aggrieved by the denial of an application may make a written request to the department for a hearing on the application within thirty (30) days after service of the notice of denial. If the applicant does not request a hearing within thirty (30) days, the denial is final.

(c) If the applicant requests a hearing, the commissioner of safety shall give written notice to the applicant to appear at a hearing to show cause why the denial of the applicant's application should not be upheld. After consideration of the evidence presented at the hearing, the commissioner of safety shall serve notice in writing to the applicant of the commissioner of safety's findings and order. A timely request for a hearing stays the denial of the application.

(d) If the application is denied, the applicant may appeal the decision pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 9.

(a) The commissioner of safety may suspend or cancel an authorization or certification, or both, granted pursuant to this act if the commissioner of safety determines that the third party or certificate holder has done any of the following:

(1) Made a material misrepresentation or misstatement in the application for authorization or certification;

(2) Violated a law of this state;

(3) Violated a rule or policy adopted by the department;

(4) Failed to keep and maintain records required by this act;

(5) Allowed an unauthorized person to engage in any business pursuant to this act; or

(6) Been involved in any activity that the commissioner of safety determines to be inappropriate in relation to the authority granted.

(b) The commissioner of safety may suspend or cancel an authorization or certification, or both, granted pursuant to this chapter if the commissioner of safety determines that an individual included in the application for authorization or certification:

(1) Made a misrepresentation, omission or misstatement in the application to conceal a matter that may cause the application to be denied.

(2) Has been convicted of fraud or an auto related felony in a state, territory or possession of the United States or a foreign country within the ten (10) years immediately preceding the date a criminal records check is complete.

(3) Has been convicted of a felony, other than a felony described in subdivision (2) of this subsection, in a state, territory or possession of the United States or a foreign country within the five (5) years immediately preceding the date a criminal records check is complete.

(c) The commissioner of safety shall suspend or cancel an authorization of a third party granted pursuant to this act if the commissioner of safety determines that the third party failed to maintain any required bond.

(d) On determining that grounds for suspension or cancellation of an authorization or certification, or both, exist, the commissioner of safety shall give written notice to the third party or certificate holder to appear at a hearing before the commissioner of safety to show cause why the authorization or certification should not be suspended or canceled.

(e) After consideration of the evidence presented at the hearing, the commissioner of safety shall serve notice of the commissioner of safety's finding and order to the third party or certificate holder.

(f) If a third party authorization or a certification is suspended or canceled, the third party or certificate holder may appeal the decision pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 10.

(a) If the commissioner of safety has reasonable cause to believe that a person who is authorized as a third party pursuant to this act or who holds a certificate granted pursuant to this act is violating any provision of this title, the commissioner of safety shall immediately issue and serve on the person, by personal delivery or first class mail at the person's last known address, a cease and desist order.

(b) On receipt of the cease and desist order, the person shall immediately cease and desist, or cease and desist as provided in the contract between the department and the authorized third party, from further engaging in any activity that is authorized pursuant to this act and that is specified in the cease and desist order.

(c) On failure of the person to comply with the cease and desist order, the commissioner of safety may conduct a hearing pursuant to this act.

SECTION 11. If the commissioner of safety has reasonable cause to believe that a person authorized under this act is violating any law of this state, the enforcement or administration of which is vested in the commissioner of safety, or has or is violating any rule or order adopted by the commissioner of safety pursuant to law, in addition to any remedies existing under this act, the commissioner of safety may bring an action in the name of and on behalf of the state and against the person to restrain or enjoin the person from continuing the violation.

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.